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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/628,519	07/28/2003	Gregory A. Ehlers	68,180-004	4286

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EXAMINER
SHERR, CRISTINA O

ART UNIT	PAPER NUMBER
3621	

DATE MAILED: 03/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	10/628,519	EHLERS ET AL.
	Examiner	Art Unit	
	Cristina Owen Sherr	3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *28 July 2003*.
2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is

    closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-71* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-71* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

    1.☐ Certified copies of the priority documents have been received.

    2.☐ Certified copies of the priority documents have been received in Application No. _____.

    3.☐ Copies of the certified copies of the priority documents have been received in this National Stage

        application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date *04/20/04*.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1.   This communication is in response to the application filed July 23, 2003.

Claims 1-71 have been examined in this case.

Priority

2.   This application claims priority to U.S. Patent Application Serial No.

10/402,370 filed March 28, 2003, which claims priority to U.S. Provisional Patent

Application Serial No. 60/368,963 filed March 28, 2002 and to U.S. Provisional

Patent Application Serial No. 60/383,027 filed on May 24, 2002, all of which are

hereby incorporated by reference.

Information Disclosure Statement

3.   The information disclosure statement (IDS) submitted on April 20, 2004 is

in compliance with the provisions of 37 CFR 1.97. Accordingly, the examiner is

considering the information disclosure statement.

Specification

4.   The lengthy specification has not been checked to the extent necessary to

determine the presence of all possible minor errors. Applicant's cooperation is

requested in correcting any errors of which applicant may become aware in the

specification.

Claim Rejections - 35 USC § 103

5.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for

all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described
> as set forth in section 102 of this title, if the differences between the subject matter sought to
> be patented and the prior art are such that the subject matter as a whole would have been
> obvious at the time the invention was made to a person having ordinary skill in the art to which

> said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 1-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sneeringer (US 6,618,709) in view of Stone et al (US 6,446,045).

7. Regarding claim 1 –

Sneeringer discloses a method for providing at least one program to a utility of a commodity, the program aimed at managing demand for the commodity, the utility delivering the commodity to at least one customer site, the customer site having a plurality of devices which use the commodity, including the steps of: delivering the commodity to the subset of devices; measuring the instantaneous rate at which the commodity is being delivered to the subset of the devices; sending the instantaneous rate for each device within the subset to the utility; determining, in real time, a capacity associated with the delivery of the commodity which may be available for management by activating the program (e.g. col 5 ln 35 – col 6 ln 60).

8. Sneeringer does not disclose, but Stone does, defining a program having a subset of the plurality of devices for which usage of the commodity may be managed by activating the program (e.g. col 3 ln 10 – col 4 ln 55).

9. Regarding claims 2-9 –

Sneeringer discloses a method including the steps of: activating the program; and, subsequently measuring at least one of a rate and a change in the rate at which the commodity is being delivered to the subset of the devices; including the step of determining an actual capacity of the commodity saved by activating of the program; including the step of providing at least one of an alternate rate

and a billing adjustment rebate to at least one customer as a function of the

actual capacity managed at the related customer site by the program; wherein

the at least one of an alternative rate and a billing adjustment is also a function of

historical usage information.; including the step of verifying management of the

devices within the subset of the devices; wherein the utility delivers the

commodity to a plurality of customer sites, each customer site having a plurality

of devices and the step of defining the program includes the step of including

within the program all devices of a similar type at each customer site; including

the step of allowing a customer to subscribe to the program; wherein the program

is mandatory (e.g. col 7 ln 10-45).

10.   Regarding claims 10-18 –

Sneeringer discloses a method wherein the utility delivers the commodity to a

plurality of customer sites, each customer site having a plurality of devices and

the step of defining at least one program includes the step of defining a plurality

of programs, each program having a respective subset of the devices; wherein

the commodity is delivered to the plurality of customer sites through a distribution

network, including the step of determining, in real time, a capacity available

across the distribution network associated with the delivery of the commodity

which may be managed by activating the plurality of programs; including the step

of providing a graphical representation of the capacity available across the

distribution network; wherein the graphical representation includes at least one of

a meter, a bar chart, a line graph, a geophysical display, and a numeric display;

wherein the distribution network includes a plurality of substations, the method

including the step of determining, in real time, a capacity available on each

substation, associated with the delivery of the commodity which may be

managed by activating the plurality of programs; wherein the distribution network

includes at least one transmission substation and at least one distribution

substation associated with each transmission substation, the method including

the step of determining, in real time, a capacity available on each substation,

associated with the delivery of the commodity which may be managed by

activating the plurality of programs; wherein the distribution network includes at

least one circuit associated with each distribution substation, the method

including the step of determining in real time, a capacity available on each circuit,

associated with the delivery of the commodity which may be managed by

activating the plurality of programs; including the step of displaying a

collapsible/expandable tree of the distribution network containing the at least one

transmission substation, the at least one distribution substation associated with.

each transmission substation, and the at least one circuit associated with each

distribution substation, wherein selection of one of the substations and circuit in

the distribution network displays associated capacity information; wherein the

collapsible/expandable tee is displayed in a utility interface, the method including

the step of displaying a list of the programs available in response to selection a

portion of the tree, the available programs corresponding to those available

programs which correspond to a portion of the distribution network (e.g. col 8 ln

10-40).

11.   Regarding claim 19-36 –

Sneeringer discloses a method wherein the commodity is electrical power;

wherein the commodity is water; wherein the commodity is on of natural gas and

steam; wherein the step of defining at least one program includes the step of

defining a plurality of programs, each program having a respective subset of the

devices, the method including the step of providing a search function for

identifying at lease one program which matches a set of conditions; wherein the

set of conditions includes an available capacity; including the step of providing a

utility interface; wherein the utility interface is accessible through a web browser;

including the step of automatically activating the program under a predetermined

set of conditions; wherein the predetermined set of conditions includes at least

one of a time of day and a day; including the step of manually activating the

program as a function of an actual demand of the commodity; wherein the

program at least one of shifts demand away from a first time period and

eliminates the demand; including the step of managing the subset of devices in

response to activation of the program; wherein the step of controlling fire subset

of devices includes the step of modifying usage of the commodity during a

predetermined period of time; wherein at least one of the devices has an

operating set point, and wherein the step of controlling the subset of devices

includes the step of modifying the set point; including the steps of receiving a

supply request and allowing an operator to responsively activate the program;

wherein the program may be activated at least one of immediately and a future

point in time; wherein the supply request includes a request duration, wherein the

program may be activated as a function of the request duration; wherein each

device has an associated node, and the method includes the step of downloading to each node, a program schedule containing scheduling information for the program (e.g. col 7 ln 25-65).

12.   It would be obvious to one of ordinary skill in the art to combine the teachings of Sneeringer and Stone in order to manage commodity usage in a more efficient manner.

13.   Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sneeringer (US 6,618,709) in view of Stone et al (US 6,446,045).

14.   Regarding claim 37 –

.Sneeringer discloses a method for providing at least one program to a utility of a commodity, the program aimed at managing demand for the commodity, the utility delivering the commodity to at least one customer site, the customer site having a plurality of devices which use the commodity, including the steps of: delivering the commodity to the subset of devices; measuring the instantaneous rate at which the commodity is being delivered to the subset of the devices; sending the instantaneous rate for each device within the subset to the utility; determining, in real time, a capacity associated with the delivery of the commodity which may be managed by activating the program; activating the program; determining an actual rue of consumption of the commodity and a rate of change of consumption induced by activation of the program; and, providing at least one of an alternative rate and a billing adjustment to at least one customer as a function of the actual capacity managed at the related customer site by the program (e.g. col 5 ln 35 – col 6 ln 60).

15.   Sneeringer does not disclose, but Stone does, defining a program having a subset of the plurality of devices for which usage of the commodity may be managed by activating the program (e.g. col 3 In 10 – col 4 In 55).

16.   It would be obvious to one of ordinary skill in the art to combine the teachings of Sneeringer and Stone in order to manage commodity usage in a more efficient manner.

17.   Claim 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sneeringer (US 6,618,709) in view of Stone et al (US 6,446,045).

18.   Regarding claim 38 –

Sneeringer discloses a method for providing at least one program to a utility of a commodity, the program aimed at managing demand for the commodity, the utility delivering the commodity to at least one customer site, the customer site having a plurality of devices which use the commodity, including the steps of: delivering the commodity to the subset of devices; measuring the instantaneous rate at which the commodity is being delivered to the subset of the devices; sending the instantaneous rate for each device within the subset to the utility determining, in real time, a capacity associated with the delivery of the commodity which may be managed by activating the program; activating the program; and, verifying management of the devices within the subset of the devices (e.g. col 5 In 35 – col 6 In 60).

19.   Sneeringer does not disclose, but Stone does, defining a program having a subset of the plurality of devices for which usage of the commodity may be managed by activating the program (e.g. col 3 In 10 – col 4 In 55).

20.   It would be obvious to one of ordinary skill in the art to combine the teachings of Sneeringer and Stone in order to manage commodity usage in a more efficient manner.

21.   Claims 39-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sneeringer (US 6,618,709) in view of Stone et al (US 6,446,045).

22.   Regarding claim 39 –

Sneeringer discloses a method for providing at least one program to a utility of electrical power, the program aimed at managing demand for the electrical power, the utility delivering the electrical power to a plurality of customer sites through a distribution network, each customer site having a plurality of devices which use the electrical power, the distribution network including; at least one transmission substation, at least one distribution substation associated with each transmission substation, and at least one circuit associated with each transmission substation, including the steps of: delivering the electrical power to the subset of devices; measuring the instantaneous rate at which the electrical power is being delivered to the subset of the devices; sending the instantaneous rate for each device within the subset to the utility; and, determining, in real time, a capacity available on at least one of the at least one transmission substation, the at least one distribution, and the at least one circuit network associated with the delivery of the commodity which may be managed by activating the program devices (e.g. col 5 ln 35 – col 6 ln 60).

23.   Sneeringer does not disclose, but Stone does, defining a program having

a subset of the plurality of devices for which usage, of the electrical power may

be managed by activating the program (e.g. col 3 ln 10 – col 4 ln 55).

24.   Regarding claims 40-41 –

Sneeringer discloses a method including the step of displaying a

collapsible/expandable tree of the distribution network containing the at least one

transmission substation, the at least one distribution substation associated with

each transmission substation, and the at least one circuit associated with each

distribution substation, wherein selection of one of the substations and circuit in

the distribution network displays associated at least one of capacity and demand

information; wherein the collapsible/expandable tree is displayed in a utility

interface, the method including the step of displaying a list of the programs

available in response to selection a portion of be tree, the available programs

corresponding to those available programs which correspond to a portion of the

distribution network (e.g. col 3 ln 10 – col 4 ln 55).

25.   It would be obvious to one of ordinary skill in the art to combine the

teachings of Sneeringer and Stone in order to manage commodity usage in a

more efficient manner.

26.   Claims 42-67 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Sneeringer (US 6,618,709) in view of Stone et al (US 6,446,045).

27.   Regarding claim 42 –

Sneeringer discloses a system for providing at least one program to a utility of a

commodity, the program aimed at managing demand for the commodity, the

utility delivering the commodity to at least one customer site, the customer site

having a plurality of devices which use the commodity, comprising a distribution

network for delivering the commodity to the subset of devices; a node, coupled to

each device, for measuring the instantaneous rate at which the commodity is

being delivered to the subset of the devices; and, a control system coupled to the

utility interface, the distribution network, and each node, for controlling delivery of

the commodity and determining, in real time, a capacity associated with the

delivery of the commodity which may be available by activating the program as a

function of the measured instantaneous rate (e.g. col 5 ln 35 – col 6 ln 60).

28.   Sneeringer does not disclose, but Stone does, defining a program having

a utility interface, operable by a user, for defining a program having a subset of

the plurality of devices for which usage of the commodity may be limited by

activating the program (e.g. col 3 ln 10 – col 4 ln 55).

29.   Regarding claims 43 - 56 –

Sneeringer discloses a program and the nodes adapted to subsequently

measure the rate at which the commodity is being delivered to the subset of the

devices; the control system for determining at least one of an actual rate of

consumption of the commodity and a change in a rate of consumption induced by

activating of the program; wherein the control system determines at least on of

an alternative rate and a billing adjustment to at least one customer as a function

of the actual capacity managed at the related customer site by the program;

wherein the at least one of an alternative rate and a billing adjustment is also a

function of historical usage information; wherein the control system verifies

management of the devices within the subset of the devices; wherein the utility

delivers the commodity to a plurality of customer sites, each customer site having

a plurality of devices and the utility interface allows the user to define a plurality

of programs, each program having a respective subset of the devices; wherein

the commodity is delivered to the plurality of customer sites through a distribution

network, wherein the control system determines, in real time, a capacity available

across the distribution network associated with the delivery of the commodity

which may be managed by activating the plurality of Programs; wherein the utility

interface includes a graphical representation of the capacity available across the

distribution network; wherein the graphical representation includes at least one of

a meter, a bar chart, a line graph, a geophysical map, and a numerical display;

wherein the distribution network includes a plurality of substations, the control

system being adapted to determine in real time, a capacity available on each

substation, associated with the, delivery of the commodity which may be

managed by activating the plurality of programs; wherein the distribution network

includes at least one transmission substation and at least one distribution

substation associated with each transmission substation, the control system

being adapted to determine, in real time, a capacity available on each substation,

associated with the delivery of the commodity which may be managed by

activating the plurality of programs; wherein the distribution network includes at

least one circuit associated with each distribution substation, the control system,

being adapted to determine in real time, a capacity available on each circuit,

associated with the delivery of the commodity which may be managed by

activating the plurality of programs; the utility interface being adapted to display a

collapsible/expandable tree of the distribution network containing the at least one

transmission substation, the at least one distribution substation associated with

each transmission substation, and the at least one circuit associated with each

distribution substation, wherein selection of one of the substations and circuit in

the distribution network displays associated capacity information related to

capacity that can be managed by the programs; wherein the utility interface

displays a list of the programs available in response to selection a portion of the

tree, the available programs corresponding to those available programs which

correspond to a portion of the distribution network (e.g. col 7 ln 10-45).

30.   Regarding claims 57 – 67 –

Sneeringer discloses a system wherein the commodity is electrical power;

wherein the commodity is water; wherein the commodity is one of gas and

steam; wherein the control system defines at least one program includes the step

of defining a plurality of programs, each program having a respective subset of

the devices, and provides a search function for identifying at one program which

matches a set of predetermined conditions; wherein the set of predetermined

conditions includes an available capacity that can be managed by the programs;

wherein the utility interface is accessible through a web browser; wherein the

program shifts demand away and eliminates demand from a first time period;

wherein the control system controls the subset of devices in response to

activation of the program; wherein the control system controls the subset of

devices by at least one of limiting and increasing usage of the commodity during

a predetermined period of time; wherein at least one of the devices has an

operating set point, and wherein the control system controls the at least one of

the devices by modifying the set point; wherein each device has an associated

node, and the method includes the step of downloading to each node, a program

schedule containing scheduling information for the program (e.g. col 7 ln 25-65).

31.   It would be obvious to one of ordinary skill in the art to combine the

teachings of Sneeringer and Stone in order to manage commodity usage in a

more efficient manner.

32.   Claim 68 is rejected under 35 U.S.C. 103(a) as being unpatentable over

Sneeringer (US 6,618,709) in view of Stone et al (US 6,446,045).

33.   Regarding claim 68 –

Sneeringer discloses a system for providing at least one program to a utility of a

commodity, the program aimed at managing demand for the commodity, the

utility delivering the commodity to at least one customer site, the customer site

having a plurality of devices which use the commodity, including the steps of:

delivering the commodity to the subset of devices; measuring the instantaneous

rate at which the commodity is being delivered to the subset of the devices;

sending the instantaneous rate for each device within the subset to the utility;

determining, in real time, a capacity associated with the delivery of the

commodity which may be managed by activating the program; activating the

program; determining at least one of an actual rate of consumption of the

commodity and a charge in a rate of consumption by activating of the program;

and providing a at least one of an alternative rate and a billing adjustment to at

least one customer as a function of the actual capacity modified at the related customer site by the program (e.g. col 5 ln 35 – col 6 ln 60).

34.   Sneeringer does not disclose, but Stone does, defining a program having a subset of the plurality of devices for which usage of the commodity may be managed by activating the program (e.g. col 3 ln 10 – col 4 ln 55).

35.   It would be obvious to one of ordinary skill in the art to combine the teachings of Sneeringer and Stone in order to manage commodity usage in a more efficient manner.

36.   Claims 69-71 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sneeringer (US 6,618,709) in view of Stone et al (US 6,446,045).

37.   Regarding claim 69 –

Sneeringer discloses a system for providing at least one program to a utility of electrical power, the program aimed at managing demand for the electrical power, the utility delivering the electrical power to a plurality of customer sites, each customer site having a plurality of devices which use the electrical power, comprising: a distribution network for delivering the commodity to the sub-set of devices, the distribution network including at least one transmission substation, at least one distribution substation associated with each transmission substation, and at least one circuit associated with each transmission substation; a node, coupled to each device, for measuring the instantaneous rate at which the commodity is being delivered to the subset of the devices; and a control system coupled to the utility interface, the distribution network, and each node, for controlling delivery of the commodity and determining, in real time, a capacity

available on at least one of the at least one transmission substation, the at least

one distribution, and the at least one circuit network associated with the delivery

of the commodity which may be managed by activating the program (e.g. col 5 ln

35 – col 6 ln 60).

38.   Sneeringer does not disclose, but Stone does, a utility interface, operable

by a user, for defining a program having a subset of the plurality of devices for

which usage of the commodity may be managed by activating the program (e.g.

col 3 ln 10 – col 4 ln 55).

39.   Regarding claim 70-71 –

Sneeringer discloses a system wherein the utility interface displays a

collapsible/expandable tree of the distribution network containing the at least one

transmission substation, the at least one distribution substation associated with

each transmission substation, and the at least one circuit associated with each

distribution substation, wherein selection of one of the substations and circuit in

the distribution network displays associated capacity information; wherein the

utility interface displays a list of the programs available in response to selection a

portion of the tree, the available programs corresponding to those available

programs which correspond to a portion of the distribution network (e.g. col 3 ln

10 – col 4 ln 55).

40.   It would be obvious to one of ordinary skill in the art to combine the

teachings of Sneeringer and Stone in order to manage commodity usage in a

more efficient manner.

41.   Examiner's note: Examiner has cited particular columns and line

numbers in the references as applied to the claims above for the convenience of

the applicant. Although the specified citations are representative of the teachings

in the art and are applied to the specific limitations within the individual claim,

other passages and figures may be applied as well. It is respectfully requested

from the applicant, in preparing the responses, to fully consider the references in

entirety as potentially teaching all or part of the claimed invention as well as the

context of the passage as taught by the prior art or disclosed by the examiner.
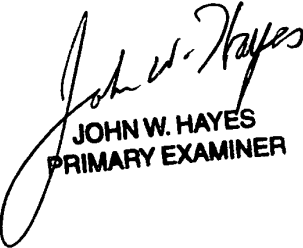
Conclusion

42.   Any inquiry concerning this communication or earlier communications from

the examiner should be directed to Cristina Owen Sherr whose telephone

number is 703-305-0625. The examiner can normally be reached on 8:30-5:00

Monday through Friday.

43.   If attempts to reach the examiner by telephone are unsuccessful, the

examiner's supervisor, James Trammell can be reached on 703-305-9768. The

fax phone number for the organization where this application or proceeding is

assigned is 703-872-9306.

44.   Information regarding the status of an application may be obtained from

the Patent Application Information Retrieval (PAIR) system. Status information

for published applications may be obtained from either Private PAIR or Public

PAIR. Status information for unpublished applications is available through

Private PAIR only. For more information about the PAIR system, see http://pair-

direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-

free).

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JOHN W. HAYES
PRIMARY EXAMINER